

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into affiliated)	DOCKET NO. 860001-EI-G
cost-plus fuel supply relationships)	ORDER NO. 23508
of Florida Power Corporation.)	ISSUED: 9-18-90
_____)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER

ORDER ON OCCIDENTAL CHEMICAL CORPORATION'S CROSS-MOTION
 FOR RECONSIDERATION OF ORDER NO. 22401

BY THE COMMISSION:

In February, 1986, the Commission opened Docket No. 860001-EI-G for the purpose of investigating the affiliated cost-plus fuel supply relationships between Florida Power Corporation (FPC) and Tampa Electric Company (TECO) and their respective affiliated fuel supply corporations. Also, in February, 1986, the Commission established Docket No. 860001-EI-G in Order No. 15895 for the purpose of determining why FPC's cost to transport coal by non-affiliated rail. In September, 1987, the Commission issued Order No. 18122, which removed TECO from Docket 860001-EI-G, established Docket No. 870001-EI-A for hearing the TECO issues, consolidated the two FPC issues for hearing in Docket No. 860001-EI-G and closed Docket No. 860001-EI-F.

By Order No. 18982, issued on March 11, 1988, the Commission determined to bifurcate the hearings in this docket on (1) the policy issue of whether a market price standard should be imposed on the recovery of costs for goods and services purchased from affiliated companies and (2) the separate issue of whether any of the monies FPC had recovered through its fuel and purchased power cost recovery clause for goods and services purchased from affiliates from 1984 to date had been imprudently or unreasonably incurred and should, therefore, be refunded to its customers. Hearing on the policy issues in this docket were held on May 11-13, 1988. Hearings on the prudency issues in this docket were held December 14-16, 1988 and April 19, 1989.

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Staff's recommendation on the policy issues were considered at the Commission's September 6, 1988 Agenda Conference. As stated in Order No. 20604 issued January 13, 1988, the Commission determined that affiliated coal purchases should be priced at market price for recovery through the utilities' fuel cost recovery clauses and that affiliated coal transportation and handling services also should be priced at "market" where it was reasonably possible to construct a market price for the goods and services being considered. Staff was directed to conduct workshops amongst the affected parties for the purposes of determining how best to establish and implement market pricing mechanisms.

Workshops with the parties were held on March 17, March 30, and April 27, 1989. Several market methodologies were discussed; however, the parties could not reach an agreement on one specific market methodology. In Order No. 20604, the Commission ordered that if the parties are unable to agree upon market methodologies, the Commission would impose such methodologies it deemed to be appropriate. Since agreement was not reached, Staff presented a recommendation at the October 17, 1989 agenda conference. Order No. 22401 was issued January 25, 1990. On February 2, 1990, Occidental Chemical Corporation (OCC) filed a request for oral argument on FPC's motion for reconsideration. OCC's request was granted by Order No. 22888 issued May 4, 1990. Oral arguments were held June 27, 1990.

OCC argued that the Commission should reconsider its decision to adopt the transportation adjustment to the FOB mine prices used to set the market price for PMJV coal because the transportation adjustment proposed by FPC compensates for an "advantage" which PMJV does not merit. PMJV coal, OCC argues, was not selected in the competitive market place; if FPC had performed a prudent solicitation, it would have selected coals with competitive transportation prices. The layering of unrealistic and unacceptable transportation costs is contrary to the concept that a market price is supposed to ensure affiliate transactions are given no better or worse treatment than that available to the competitive marketplace to non-affiliate suppliers. If any transportation adder is adopted, OCC argues, it should be based upon the municipal rail rates, similar to the methodology testified to by Staff Witness Pyrdol.

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FPC argues that OCC's Cross-Motion should be denied; the same argument was made by the Office of Public Counsel, Florida Industrial Power Users Group and OCC in their September 12, 1989 Joint Supplemental Brief and by OCC in its June 26, 1989 Brief, and each time the argument was rejected. OCC has offered no new information which would give the Commission a reason to change its mind.

We find that the appropriateness of including the transportation adjustment to establish a market price for Powell Mountain Joint Venture coal has been discussed at length in the hearings, brief, and recommendation in this docket. OCC has not offered any new arguments on why this adjustment should be eliminated. The inclusion of the adjustment is based on information contained within and supported by the record in this docket. Therefore, we find that OCC's Cross-Motion for Reconsideration of this issue should be denied.

OCC also argues that the Commission should established a tonnage volume floor for third party business of FPC's affiliate transportation services and facilities to preserve the benefits of revenues for ratepayers. That floor, OCC argues, should be based on an average third-party tonnage or in-service days over a representative time period. A tonnage volume floor, OCC maintains, will assure that ratepayers are not harmed by efforts to reduce third party sales so as to assure 100% recovery of fixed costs from ratepayers, provide FPC with market incentives to at least maintain third party business and reduce administrative and compliance burdens on the Commission and its Staff.

FPC contends that OCC's suggestion that a "tonnage volume floor" be established for third party business of Dixie Fuels Limited is without foundation; no witness advocated such a "floor", and there is no basis for it in the record. Moreover, FPC's motion simply pointed out what appeared to be an inconsistency in Order No. 22401 so that the matter could be clarified. Florida Power sought to straighten out what it perceived to be an inadvertent misstatement and to assure that FPC would know precisely how to account for third-party business, whether a backhaul or not, which reduces the cost of transporting coal to Crystal River.

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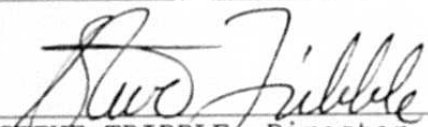
We find that Order No. 22401, the subject of OCC's Cross-Motion for Reconsideration, does not address the establishment of a tonnage volume floor for third party business by FPC's transportation facilities. It is not appropriate, therefore, to reconsider the issue in this docket.

In consideration of the foregoing, it is

ORDERED that Occidental Chemical Corporation's cross-motion for reconsideration is denied and the Commission will not reconsider its decision to adopt the transportation adjustment to the FOB mine prices used to set the market price for PMJV coal. It is further

ORDERED that the Commission will not establish a tonnage volume floor for third party business of FPC's affiliate transportation services and facilities.

By ORDER of the Florida Public Service Commission,
this 18th day of SEPTEMBER, 1990.



STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.